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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,949	08/28/2001	Dale R. Adams	60472-302101	7090
7590	05/05/2004		EXAMINER	
PAUL HICKMAN PATENT ATTORNEY PERKINS COIE LLP P. O. BOX 2168 MENLO PARK, PA 94026-2168			KOSTAK, VICTOR R	
			ART UNIT	PAPER NUMBER
			2614	8
DATE MAILED: 05/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/941,949	ADAMS, DALE R.
	<b>Examiner</b>	<b>Art Unit</b>
	Victor R. Kostak	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 April 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 and 10-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 10 is/are rejected.
- 7) Claim(s) 11-16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

1. Applicant's election without traverse of invention I in Paper No. 4/19/04 is acknowledged.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The scope of claim 1 is not definite because the step of deriving an indication of a presence of motion artifacts recited in step (c) is not connected in any way to the preceding steps of detecting and analyzing vertical frequencies.

Moreover, none of steps (b) – (d) refers in any way to step (a) or to the preamble, thereby showing an undefined scope.

Also in claim 3, steps (b) and (d) are identical which does not make sense when considering the actions carried out in the assumed sequence of successive steps (a) – (d).  
(Applicant may have intended the second  $f_{max}$  to be the  $f_{max}/4$  term recited in dependent claim 4.)

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1 is also rejected under 35 U.S.C. 102(e) as being anticipated by Swartz.

Swartz (noting particularly Fig. 4) incorporates a field motion detector (implicitly reciting interlacing) specifically designed to prevent false detection of motion artifacts (col. 3 lines 24-26; col. 9 lines 18-39), in a format detection system (Fig. 1). Plural frequency detection values are first determined by plural subtractors (noting Fig. 4), and element 408 analyzes the respective levels, compares the values and keeps the smaller of the continuously accumulating values. An indication of motion artifacts is thereby derived, and measures are taken to avoid such artifacts by magnitude comparator 410, which in turn activates a switch 412 according to the results differentiator 406.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz.

As discussed above, Swartz incorporates a field motion detector (implicitly reciting interlacing) specifically designed to prevent false detection of motion artifacts (col. 3 lines 24-26; col. 9 lines 18-39), in a format detection system (Fig. 1). Plural frequency detection values are first determined by plural subtractors (noting Fig. 4), and element 408 compares the values and keeps the smaller of the continuously accumulating values. Eventually, in order to avoid

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false motion detection, the kept value is compared with a threshold (derived from the vertical energy from a differentiator 406) by comparator 410, which in turn triggers a switch 412.

Claim 10 does not define what  $f_{\max}$  is, and Swartz describes conditions where low frequencies and separate high frequency conditions are encountered (indicative of steady imagery or active imagery), meaning that element 408 receives at times mainly minimum values and at other times maximum values. Therefore, it would have been obvious to consider the condition of the image sequence resulting in maximum frequency values being continuously sent to element 408 for comparison with the difference value (threshold) provided by element 406.

Moreover, it would have been obvious to update (adjust) the maximum values when the comparison carried out by element 410 switches the operating conditions of motion so detected, thereby forcing element 408 to be fed updated (adjusted) values.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wang, Prodan, and Boie are also relevant to rejected claim 1.

6. Claims 2-5 and 11-16 appear allowable (irrespective of the indefiniteness) over the prior art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is 703 305-4374. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

**(703) 872-9306 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 308-HELP.

*L. n.d.*

Victor R. Kostak  
Primary Examiner  
Art Unit 2614

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